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6 **UNITED STATES DISTRICT COURT**
7 **WESTERN DISTRICT OF WASHINGTON**
8 **AT SEATTLE**

9 DEBBIE CHAVES, on behalf of herself and
10 all others similarly situated,

11 Plaintiff,

12 v.

13 AMAZON.COM, INC.,

14 Defendant.
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Case No.:

CLASS ACTION COMPLAINT

JURY TRIAL DEMANDED

26 CLASS ACTION COMPLAINT
CASE NO.

BURSOR & FISHER, P.A.
1990 NORTH CALIFORNIA BLVD., SUITE 940

1 Plaintiff Debbie Chaves (“Plaintiff”), individually and behalf of all others similarly
2 situated, brings this class action against defendant Amazon.com, Inc. (“Defendant” or
3 “Amazon”). Plaintiff makes the following allegations pursuant to the investigation of their
4 counsel and based upon information and belief, except as to the allegations specifically
5 pertaining to herself, which are based on personal knowledge
6

7 NATURE OF THE ACTION

8 1. This is a class action for breach of contract and consumer protection act violations
9 arising from Amazon’s unlawful charge of a “sales tax” to United States customers on certain
10 digital and gift card goods, despite the tax-exempt status of such goods under state law.
11

12 2. Amazon owns and operates Amazon.com, the world’s largest online marketplace.

13 3. Amazon’s website contains a page explaining how taxes on purchases are
14 calculated.¹ This webpage states that “The tax rate applied to your order will be the combined
15 state and local rates of the address where your order is delivered to or fulfilled from.” This page
16 is incorporated into Amazon’s Conditions of Use.²

17 4. Amazon further states that with regard to assessing “Tax on Digital Products and
18 Services” that “To determine [a customer’s] location, Amazon evaluates the address information
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23 ¹ <https://www.amazon.com/gp/help/customer/display.html?nodeId=202036190>.

24 ² See [https://www.amazon.com/gp/help/customer/display.html?nodeId=GLSBYFE9M](https://www.amazon.com/gp/help/customer/display.html?nodeId=GLSBYFE9MGKKQXXM)
25 GKKQXXM (“Please review our other policies, such as our pricing policy, posted on this site.
These policies also govern your use of Amazon Services.”).

1 available in the customer's account which can be the billing address associated with the method
2 of payment or the country of residence a device[] is set to.”³

3 5. Further, Amazon states that with regard to gift cards: “**No tax is charged when**
4 **purchasing gift cards**; however, purchases paid for with gift cards may be subject to tax.”⁴

5 6. In certain instances, Amazon adheres to this policy. Yet, as demonstrated by the
6 allegations herein, there are numerous occasions in which Amazon charges sales tax on virtual
7 gift cards in violation of its own policy, and in violation of the tax laws of Massachusetts and
8 numerous other states.

10 7. On August 3, 2021, Plaintiff purchased the item “Roblox Gift Card – 800 Robux
11 [Includes Exclusive Virtual Item] [Online Game Code]” (the “Item”).

12 8. As shown below, the Item should only cost \$10.00. Further, no sales tax should
13 be assessed because the Item is a virtual good and Plaintiff purchased the Item in Massachusetts,
14 where no sales tax is assessed on virtual goods:



23 ³ <https://www.amazon.com/gp/help/customer/display.html?nodeId=202074730>.

24 ⁴ <https://www.amazon.com/gp/help/customer/display.html?nodeId=202036190> (emphasis
25 added).

9. Moreover, Amazon explicitly represents that it will not charge sales tax on gift cards, which the Item is.

10. Yet, Amazon charged Plaintiff Chaves the Massachusetts 6.25% “sales tax” (\$0.63) on this purchase even though no such tax was actually owed under Massachusetts state law, and even though Amazon explicitly represents that “no tax is charged while purchasing gift cards”:

Digital Order: August 3, 2021	
Items Ordered Roblox Gift Card - 800 Robux [Includes Exclusive Virtual Item] [Online Game Code] Quantity: 1 Sold By: Amazon.com Services LLC	Price \$10.00
Item(s) Subtotal: \$10.00 Total Before Tax: \$10.00 Tax Collected: \$0.63 Total for this Order: \$10.63	
Payment Information	
Payment method [REDACTED]	Item(s) Subtotal: \$10.00 Total Before Tax: \$10.00 Tax Collected: \$0.63 Amazon Gift Cards: \$10.00 Grand Total: \$10.63
Billing address DEB CHAVES [REDACTED] RAYNHAM, MA 02767 United States	

11. The Item was “fulfilled” from within the Commonwealth of Massachusetts. Plaintiff listed her home address in the Commonwealth of Massachusetts for both her shipping address and billing address when ordering the Item, and the Item was downloaded in Massachusetts. Further, “[f]or sales tax purposes, the state that has the right to tax the sale is **the state where delivery occurs,**” which is Massachusetts.⁵

⁵ SALES TAX INSTITUTE, DOES THE SELLER COLLECT TAX FOR THE STATE IT IS LOCATED IN OR THE STATE WHERE THE CUSTOMER IS LOCATED?, https://www.salestaxinstitute.com/sales_tax_faqs/where_to_collect_sales_tax (emphasis added).

12. The Commonwealth of Massachusetts imposes a sales tax of 6.25% on “**tangible** personal property or of services performed in the commonwealth.” MA Gen L ch 64H § 2. Digital goods are **exempt** from sales tax in the Commonwealth of Massachusetts. *See* M.T.G. TIR 05-8 at VII.B.8 (stating “[d]igital products... delivered electronically, including but not limited to music, video, reading materials or ring tones” are expressly tax-exempt).

13. Accordingly the 6.25% (\$0.63) sales tax that Amazon charged on the Item was improperly assessed, in violation of both Massachusetts law and Amazon’s contract with Plaintiff and the putative Classes.

14. Amazon’s practice of unlawfully charging sales tax is not limited to the Commonwealth of Massachusetts. For instance, Amazon also charges a sales tax on the Item when the billing address is in the State of New York:

Digital Order: August 13, 2021	
Items Ordered Roblox Gift Card - 800 Robux [Includes Exclusive Virtual Item] [Online Game Code] Quantity: 1 Sold By: Amazon.com Services LLC	Price \$10.00 Item(s) Subtotal: \$10.00 ----- Total Before Tax: \$10.00 Tax Collected: \$0.89 ----- Total for this Order: \$10.89
Payment Information	
Payment method [REDACTED]	Item(s) Subtotal: \$10.00 Total Before Tax: \$10.00 Tax Collected: \$0.89
Billing address [REDACTED] NEW YORK, NY 10106-0001 [REDACTED]	Grand Total: \$10.89

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